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ABSTRACT

This paper discusses the implications for State educational finance of the recent Serrano vs Priest decision and tries to clarify the exact meaning of the Serrano case. It notes that the use of property taxes for financing schools is not barred by the decision. Rather, the case expresses the principle of neutrality -- the level of spending for a child's education may not be a function of wealth. According to the report, many State legislatures will probably turn to full State funding of education to satisfy this principle of neutrality. (JF)

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DIAGNOSIS AND TREATMENT FOR AILING SCHOOL FINANCE SYSTEMS

A paper prepared for the annual meeting of the Council of Chief State School Officers at Louisville, Kentucky
November 15, 1971
by H. Thomas James, President
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When I completed the series of school finance studies that occupied my attention at Stanford through much of the last decade I announced what I thought was the most significant generalization to come out of those studies. That generalization was that local property tax paying ability was the major determinant of social policy for public education, and that unless we could reverse that equation and let social policy determine what should be spent for education we would have deep trouble in our schools.

The courts have now diagnosed this pervasive ailment in our state school finance systems, and legislative remedies are beginning to emerge.

The Serrano Case, which the California Supreme Court remanded to the trial court with directions to overrule the demurrers and proceed with the trial, has been called the most important event in school finance in this century. The case is not settled, and such judgements may be premature; yet already its principle of fiscal

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neutrality has been accepted by a United States District Court in Minnesota, and legislative thinking and planning across the nation is already deeply affected by with the reasoning of the California Supreme Court.

A remarkable amount of discussion has been generated by these cases. The fact that much of that discussion is not relevant makes it most important to keep our heads clear about what the California Supreme Court ruled, and what it did not rule, for there is important work to be done in reshaping most of the nation's school support systems, and we should not be distracted by irrelevancies. If I read it correctly, the court said one thing, and one thing only, that has the effect of law. What that single ruling says is: that a state denies pupils equal protection under the law when substantial disparities exist among school districts in the amount of revenue available for each child's education. The principle of fiscal neutrality, as spelled out by the United States District Courts of Minnesota, Third Division (1) is as follows: "Plainly put, the rule is that the level of spending for a child's education may not be a function of wealth other than the wealth of the state as a whole."

The court did not say, as was widely headlined in the newspapers across the country, that schools were barred from use of the property tax. Rather it said that the <u>particular mode</u> that California law uses to make property taxes available to schools is barred. Since this mode

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is common to the great majority of American states, it seems probable that it will be barred, as it has been already in Minnesota, to a great many other states as well. As a matter of fact the property tax will almost certainly continue to be used by most states for partial support of schools at least for some time to come. But, the court has said, the mode prescribed by law must change in ways that satisfy the principle of fiscal neutrality that is being violated in California, Minnesota, and probably in a great many other states as well. The mode most likely to be accepted and enacted into law is a statewide uniform tax on property levied by the state, about which I will say more later. Almost certainly the legislative remedy to satisfy the principle of fiscal neutrality will in many instances emerge as full state funding for public elementary and secondary education.

Full state funding of education is not new. One finds frequent references in the histories of school finance to the Connecticut experience with full support. That state created a school fund out of revenue received from the sale of Western lands, notably the sale of the Western Reserve, in 1795. These references frequently point out that Connecticut schools and the quality of education languished during this period, a comment usually intended to support the proposition that localities need to be involved in financing education to assure strong interest in the schools. Unfortunately few of these

references take note of the fact that in other states, relying on local support, schools and the quality of education also languished during this same period! This is a beautiful case of establishing a casual relationship by ignoring a large part of the available date.

We have one state, Hawaii, that is for all practical purposes operating on full state funding since it was granted statehood, the exceptions being the city or borough units which, though small geographically, contain the major part of Alaska's population; many, but not all of them levy local taxes for school purposes. With the new revenues being generated by oil leases and anticipated royalties, the state appears to be moving toward at least 90 percent state funding even for boroughs and city school systems.

Even prior to the Serrano Case, for several years there has been widespread interest and advocacy for full state funding, certainly more than I have ever heard before in my 30 years of interest and inquiry into school finance policy. It is perhaps a good time to sort out the pros and cons of the arguments.

Let me begin by noting that one of the most pervasive values in the school finance literature is equality. Ellwood P. Cubberley, one of the first serious scholars to study school finance, made a useful distinction between equality of educational opportunity and equality in the burdens of taxation required to support schools. I would like to keep that distinction before us, for while we can approach equity in

tax burdens through uniform state-administered tax programs, which Cubberley advocated, we cannot approach equality of educational opportunity by uniform state grants per pupil, which he also advocated. Nor does the rule of fiscal neutrality require uniform grants, for all the Court required in the Serrano Case is that the state not use its power to create substantial disparities in either the benefits of education or the burdens of taxation supporting them.

Let me illustrate my point on equity in taxation. None of the schemes for state support of education generally referred to as foundation programs of which both California's and Minnesota's are representative, equalize the local property-tax levy rates among districts within states. As a matter of fact, after my studies of state school finance done earlier in this decade were completed, I concluded that the variations in levy rates were probably as great after 50 years of effort to equalize them as they were when Cubberley first studied them in 1905. The way to approach equity in tax rates is to levy uniform rates on specified classes of property valued honestly under state-administered assessments. I say "approach" equity because equity is a sometime thing, and ingenious people find strange and wondrous arguments to support charges of inequity in matters of taxation. However, state legislators are well-experienced in dealing with such arguments, and I have never known them to be particularly impressed by the efforts of educators to instruct them in these matters. A judicial remedy has now been found for the fundamental

flaw in most state school finance systems, to which the legislatures must pay attention. The legislative remedies will be worked out, however, in the political arena, and the means of raising funds, and their related concerns for equity, will be hammered out in each state by the legislatures. The inequities in property tax rates among districts that are noted in the Serrano Case arose out of legislative acts assigning the power to tax property to school districts; it was an inherently unequal assignment of power because the tax bases to which the rates were to be applied were inherently unequal. The sensible remedy is a legislative remedy, which could be achieved by returning the power to tax property to the legislatures, to be exercised uniformly on that tax base as it is now exercised on other tax bases, including income and sales. But note well: the Serrano decision does not require tax rates for school purposes to be equal; but it does seem salutary that a sensible remedy also turns out to be equitable as well.

Let me also illustrate my point in contradiction of Cubberley's proposal to distribute state funds on a uniform grant per pupil. Again, note that the Serrano Case does not say that amounts of money per pupil must be equal, but only that the state may not use its power to make them substantially disparate. Equal amounts of money do not buy equal amounts of educational services in different districts, a fact fully demonstrated by R. L. Johns and Edgar Morphet when they proposed their modification of the Strayer-Haig-Mort model for foundation programs.

Nor are the needs of children served by equal educational opportunities, as has been amply demonstrated in the literature on compensatory education. So while the notion of full state control of the total system of taxation needed to assemble the money for supporting schools is equitable, sensible and feasible, the notion of distributing it in equal amounts per pupil is not. The reasons are simple; we have used flat grants, and later equalizing grants, as arbitrary substitutes for knowledge we did not have, namely, what was required for a given fiscal period to provide a child, or a classroom, or an attendance center, or a school district with the educational services required by each unit. Now is a propitious time to abandon these inadequate substitutes, for reorganization and technology make it possible to deal with facts in budget making. After 40 years of school district reorganization the number of school districts are reduced to one-seventh of the number we had in the 1930's. The ruling of the U.S. District Court in Michigan in September on the Detroit Schools segregation case strongly suggests a new round of reorganization may be imminent, combining urban and suburban schools, and the report of the President's task force on school finance reinforces the expectation. With recent fantastic improvements in the technologies of data processing and data reduction, there is no reason why we can't begin building budgets for elementary and secondary education in most states in the same way we have been doing for higher education, with statements of needs of children, aggregated to classrooms, aggregated again to attendance centers, school

districts, and finally aggregated to the statewide budget for schools to be presented to the legislature as is now commonly done for institutions of higher education. An adequately staffed state agency could monitor programs, note deficiencies or extravagances in local programs, and negotiate with each district a mutually satisfactory annual budget which could then be aggregated with those of other districts for presentation to the legislature for action. The legislature would then look to all revenue sources, including whatever the Congress might choose to share with them, and make whatever distribution of the burdens across its several tax bases including, if it so desires, the property tax base, as dictated by the political processes that shape their decisions.

If a budgetary approach to distribution of state funds makes sense for higher education, the same approach should make sense for elementary and secondary education as well. Such budget process should begin with the individual child, and the identification of his needs for educational service, because, while the Courts have recognized the desirability of such a course, they lament their inability to deal with it, calling attention to the fact that complex administrative structures are required for such a complex task and suggesting that such structures exist, or could be created. Full state funding can be shown to increase equality in the tax burdens supporting education, and we have the evidences from Hawaii and to a lesser degree from Alaska, as well as our ability to reason from the experience of very large school districts, to show that it does.

We have no such evidence to reassure us on the distribution side, for wherever formulae are used, as they are to some degree in Hawaii and Alaska, and very generally in very large local districts, inequalities of services persist. I am sure, if the state commissioners of both Hawaii and Alaska are here, they will agree that great variations in the quality of services exist among attendance centers in both states, and that these inequities could be remedied only by developing a separate budget for each attendance center quite outside the constraints now imposed by standard salary scales, standard allowances for instructional materials, and many others. We have also, from the Coleman report and from more recent studies related to ESEA Title I, evidences of similar variations of quality within city school districts, for the same reasons; which can be corrected only by similar remedies.

In closing, may I note that this whole discussion leaves out of account the very substantial disparities in both tax burdens and educational opportunities among states. This is a matter that only Congress can remedy, and in spite of a long and ardent advocacy by schoolmen supporting such a remedy, including Paul Mort, John Norton, R. L. Johns, Edgar Morphet, Bill McClure, Erick Lindman, and many others, Congress continues to show a notable lack of interest in the subject.

In closing let me summarize the pros and cons of state funding. The most cogent argument for full state funding is the flexibility it would place in the hands of the legislature in assuring a politically satisfactory balance of loadings of school costs on the several tax bases, and in improvements in the equitable treatment of property taxpapers.

The most serious objection to full state funding is the probability that funds would be distributed as flat grants which would not improve equality of educational opportunity. Only a distribution based on budgets built carefully from a base of needs for services defined initially for individual children could do that.

One final comment: Alan Hickrod, in an article in the February 1971 Review of Educational Research, noted my prediction a decade ago that no amount of empirical quantitative research in school finance would ever settle the ancient and often bitter disputes about the egalitarian and the libertarian dilemma that has been perhaps the dominant value conflict in our nation from its beginnings. The full state funding of elementary and secondary education would be a long step to the egalitarian side. We can expect strong statements to be made from the libertarian viewpoint in the media shortly, and in the political arena later. If the egalitarians win this one, be assured that the libertarians will seek redress, most probably by expanding the private sector. This probability, I should guess, should be weighed on the con side, but that, too, is arguable.